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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/083,953	02/27/2002	Robert M. Sheppard	2002B009	8350

23455 7590 06/28/2004

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EXAMINER

AHMED, SHEEBA

ART UNIT PAPER NUMBER

1773

DATE MAILED: 06/28/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/083,953

Applicant(s)

SHEPPARD ET AL.

Examiner

Sheeba Ahmed

Art Unit

1773

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 30 March 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) 16-23 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-15 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Response to Amendment***

1. Amendments to claims 1-3 and 15 have been entered in the above-identified application. **Claims 1-23 are pending of which claims 1-15 are now consideration.**

### ***Election/Restrictions***

2. Applicant's traverse the restriction requirement on the grounds that a search of all the claims would not be unduly burdensome to the Examiner given that the product claims under examination encompass both the co-extruded and laminated structures. However, as previously pointed out, the inventions of Group I and II are distinct given that the multilayer polymer film structure can be made by adhesively bonding the base, core and skin layers rather than co-extruding these and since these inventions have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper. However, pursuant to the procedures set forth in the Official Gazette notice dated March 26, 1996 (1184 O.G. 86), claims directed to the process of making or using a patentable product, previously withdrawn from consideration as a result of a restriction requirement, are subject to being rejoined.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 1-15 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 recites a cavitated layer wherein the cavitated layer "is cavitated to a degree sufficient to limit viewing of the base layer there through". It is unclear what is meant by such a limitation from both the claims and the Specification. The phrase "a degree sufficient to limit viewing of the base layer there through" is indefinite given that the claim fails to state the function which is to be achieved and more than one effect can be implied from the specification or the relevant art. Claims 2-14 are dependent on claim 1 and hence incorporate all limitations of claim 1. Appropriate correction or clarification is required.

#### ***Response to Arguments***

4. Applicant's arguments with respect to the prior art rejection of claims 1, 2, 7, 8, 10, 13, and 14 under 35 U.S.C. 102(b) as being anticipated by Rua, Jr. et al. (US 5,544,881), the rejection of claims 1, 7-10, 13, and 14 under 35 U.S.C. 102(b) as being anticipated by Silverschotz et al. (US 5,542,710), the rejection of claims 3-6, 11, 12, and 15 under 35 U.S.C. 103(a) as being unpatentable over Rua, Jr. et al. (US 5,544,881) in view of Kong et al. (US 6,500,533 B1), and the rejection of claims 2-6, 11, 12, and 15 under 35 U.S.C. 103(a) as being unpatentable over Silverschotz et al. (US 5,542,710) in view of Kong et al. (US 6,500,533 B1) have been fully considered and are persuasive.

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Therefore, the rejections have been withdrawn. However, upon further consideration, a new ground of rejection, as stated above, has been made.

***Conclusion***

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sheeba Ahmed whose telephone number is (571)272-1504. The examiner can normally be reached on Monday-Friday from 9am to 5:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Paul Thibodeau can be reached on (571)272-1516. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Sheeba Ahmed  
Art Unit 1773  
June 22, 2004